IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 13194 of 2007(U)

PETITIONER:

TESSY P.DAS W/O.LATE MR.JOSE DAS T.V.,
THEKKEKKARA, NALUKODY P.O., CHANGANASSERY,
NOW RESIDING AT HOUSE NO.209/A-1, 14TH CROSS ROAD,
KANGGADAN PURAS, C.V.RAMAN NAGAR P.O.,
BANGALORE.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENTS:

SECRETARY,
PAIPPADU GRAMA PANCHAYAT,
NALUKODI P.O., CHANGANASSERY.

BY ADV. SRI.V.PREMCHAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.13194/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE MARRIAGE CERTIFICATE OF THE PETITIONER.

EXT.P2:- COPY OF THE CERTIFICATE DT. 28.4.06 ISSUED BY THE S.I. POLICE, PAIPPADU SHOWING THE PETITIONER'S HUSBAND'S DEADBODY WAS BROUGHT FROM MADURAI.

EXT.P3:- COPY OF THE CERTIFICATE ISSUED BY THE 'VICAR' OF THE ST.THOMAS CHURCH PAIPPADU.

EXT.P4:- COPY OF THE INTIMATION DT. 28.4.06 REJECTING THE SUBMISSION OF INFORMATION FOR THE REGISTRATION OF DEATH OF PETITIONER'S HUSBAND.

/TRUE COPY/

P.A. TO JUDGE

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PIUS C. KURIAKOSE, J.

W.P.(C) No.13194 OF 2007

Dated this the 28h day of November, 2007

JUDGMENT

The grievance of the petitioner, a widow, in this writ petition appears to be genuine. Her grievance is that the respondent (Secretary of the Paippadu Grama Panchayat) who is registrar of births and deaths has declined under Ext.P4 to register the death of her husband late Jose Das T.V. under the Registration of Births and Deaths Act 1969 on the ground that the death occurred outside his jurisdictional limits viz. the area of Paippadu Grama Panchayat. The petitioner submits that her husband Sri.Jose Das died in Madurai in Tamil Nadu, but the dead body was brought over to Paippadu, his village and was buried at the Cemetry of St.Thomas Church, Paippadu, his parish Church. Ext.P3 Certificate issued by the Vicar of the Church is relied on by the petitioner in this regard. Ext.P3 was submitted by the petitioner before the respondent along with an application for issuance of a Death Certificate in respect of Sri.Jose Das. But that application was rejected under Ext.P4 on the reason already stated. The petitioner has filed this writ petition challenging Ext.P4 raising various grounds. The relief sought for is a writ of mandamus directing the respondent to register the death of the petitioner's husband Sri.Jose Das.T.V.

2. A counter affidavit has been filed by the respondent, wherein quoting Section 7(2) of the Registration of Births and Deaths Act 1969, it is contended that the respondent is not competent in terms of that Section to register the death which occurred outside the limits of the Panchayat – the Registration Unit.

3. I have heard the submissions of Sri.Liji.J.Vadakedom, learned counsel for the petitioner and Sri.V.Premchand, the learned Standing Counsel for the Panchayat. My attention was drawn by the learned counsel in their submissions to Section 7(2) and and to Section 8(e) of the Registration of Births and Deaths Act and other statutory provision.

Sections 7 (2) & 8 of the Registration of Births and Deaths Act, 1969 are quoted below:

7(1) -

> "7(2). Every Registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him under section 8 or section 9 and shall also take steps to inform himself carefully of every birth and of every death which take place in his jurisdiction and ascertain and register the particulars required to be registered".
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> Section 8 : **Persons required to register births and deaths**:- (1) It shall be the duty of the persons specified below to give or cause to be given, either orally or in writing, according to the best of their

knowledge and belief, within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (1) of section 16.

(a) to (d) omitted, being not relevant.

(e) in respect of any new-born child or dead body found deserted in a public place, the headman or other corresponding officer of the village in the case of a village and the officer in charge of the local police station elsewhere:

Provided that any person who finds such child or dead body, or in whose charge such child or dead body may be placed, shall notify such fact to the headman or officer aforesaid;

4. Section 9 contains special provisions regarding the Births and Deaths in a plantation and under that Section the Superintendent of the plantation shall give or cause to be given to the Registrar the information referred to in section 8.

5. Section 10 is also relevant and under that Section it shall be the duty of the midwives or other medical or health attendants at a birth or death to notify every birth or death or both at which he or she attended or was present, or which occurred in such areas as may be prescribed, to the Registrar within such time and in such manner as may be prescribed. A similar duty is cast on keepers or the owners of a place set apart for the disposal of dead bodies or any person required by a local authority to be present at such place or any other person

whom the State Government may specify in this behalf by his designation.

6. It is noticed that Parish Priests of churches in cemeteries of which burial of dead-bodies are conducted have been authorised as per notification No.1197/79 dt.13.10.97 as persons duty bound to notify for the purposes of Registration of Births and Deaths Act 1969.

7. Ext.P2 is issued by the Sub Inspector of Police, Changanassery who is obliged in terms of Section 8(1) (e) to give information to the Registrar of the particulars required to be entered in the register and Ext.P3 is a certificate issued by the Vicar of St.Thomas church, Paippadu to the effect that the petitioner's husband Sri.Jose Das T.V died on 09.01.06 and was buried in the church cemetery on 12.01.06. Exts.P2 and P3 in my opinion can be treated on the circumstances of this case as notifications statutorily given to the Registrar regarding the death of the petitioner's husband. Significantly, the identity of the person referred to in Exts.P2 and P3 and the dead-body referred to in Ext.P3 is not doubted even for a moment by the Registrar. The Registrar expresses helplessness on the reason that the death of the petitioner's husband has taken place admittedly in the State of Tamil Nadu. It is pertinent in this context to note that the

obligation cast on the persons mentioned in Sections 8 and 10 to furnish information to the Registrar regarding births and deaths are not confined to births or deaths taking place within the territorial jurisdiction of the Registrar concerned.

8. Section 8(e) as already noticed deals with dead-bodies found deserted in public places and it is not difficult to assume that in the case of those dead-bodies the probabilities will be more that deaths took place in some far away places out of the local limits of the registration unit. It is very common now a days that dead-bodies of persons who die abroad at their places of work are brought down to their native villages for cremation. Insistence on the death taking place within the jurisdictional limits of the Registrar as a condition for registration of the births and deaths, will result in considerable hardship to the dependants and the legal representatives of the dead.

9. An entry in the Death Register maintained by the local Register relating to the death of a person will be required by the surviving dependents or legal representatives so as to enable them to administer the estate left behind in their favour.

10. It appears to me that the respondent has read the two limbs in Section 7(2) i.e. the first limb of the Registrar making entires of

information received by him under Section 8 or Section 9 and the second limb of the Registrar taking steps to inform himself of death taking place within his jurisdiction conjunctively and taken the view that he is bound to register only those information received in respect of deaths taking place within his jurisdiction. The first limb in Section 7 (2) and the second limb therein in my view, are to be read disjunctively and not conjunctively. The Registrar will have an obligation under Section 7 (2) to register particulars regarding births or deaths, regarding which information is given to him, under Sections 8 or 9 wherever death or birth takes place. Such an interpretation is to be given to Section 7(2) as otherwise provisions like Section 8(e) obliging village headmen, police officers and authorised persons like Parish priests to convey information to registrars will become otiose.

11. For all the above reasons, I hold that Registrars' appointed by the State Government under Section 7 of the Registration of Births and Deaths Act, 1969 for a given local area, are competent to Register of Births and Deaths taking place outside the local areas provided information with regard to the birth or death is duly notified to them under Section 8 or 10 of the Act. In such cases the Registrar will have to be convinced regarding the identity of the child born or person who is

dead on the basis of dependable materials. A declaration will have to be insisted from the person aspiring for registration to the effect that the the particulars sought to be registered are true and correct and that the particulars have not been registered anywhere else in India and also that the same does not run in conflict with particulars registered by any other authority outside India.

The result of the above discussion is that the Writ Petition will stand allowed. The respondent-Secretary, Payippadu Grama Panchayat is directed to act upon Exts.P2 and P3 and register the death of the petitioner's husband, Sri.Jose Das T.V. In the register maintained by him under Act 18 of 1969 and to issue a certified extract of the relevant entries to the petitioner if applied for by her. The parties are directed to suffer their respective costs.

(PIUS C.KURIAKOSE, JUDGE)

dpk/btt